

Chapter 82

TAXATION

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ARTICLE I. IN GENERAL

Sec. 82-1. Authority of council to levy, assess and collect taxes.

- (a) The city council has the power to levy, assess and collect such taxes as the council may determine for current expenses and for the purposes of constructing public buildings, waterworks, sewers, and other permanent improvements.
- (b) Any such tax as provided for in subsection (a) of this section shall be in compliance with V.T.C.A., Tax Code ch. 26.

(Ord. No. 13A, §§ 1 -- 2, 9-6-1990)

Sec. 82-2. Exemption of portion of assessed value of residence homestead for persons age 65 or over and disabled persons.

- (a) From and after January 1, 2005, a person who has attained the age of 65 years on or before January 1st of the year for which the exemption is claimed is entitled to an exemption from taxation of \$20,000.00 of the assessed value of his/her residence homestead.
- (b) In addition, from and after January 1, 2005, a person who is disabled, as such term is defined in V.T.C.A., Tax Code § 11.13, is entitled to an exemption from taxation of \$12,000.00 of the assessed value of his/her residence homestead.
- (c) A person who is eligible for both the exemptions provided by subsection (a) and subsection (b) must elect to receive either the age 65 exemption or the disability exemption in conformance with the provisions of V.T.C.A., Tax Code § 11.13.
- (d) In order to secure the benefit of the exemptions herein provided for, the owner of such property shall, between January 1 and May 1 of the year in which the person qualifies for the exemption, file with the chief appraiser of Bexar County on a form furnished by the appraisal office, such evidence as is required by the Texas Property Tax Code to be furnished to the chief appraiser in order to establish eligibility. The chief appraiser may extend the deadline for filing an exemption for good cause shown by written order for a single period not to exceed 60 days in conformance with V.T.C.A., Tax Code § 11.13.
- (e) If the chief appraiser discovers that an exemption that is not required to be claimed annually has been erroneously allowed in any one of the five preceding years, the chief appraiser shall add the property or appraised value that was erroneously exempted for each year to the appraisal roll as provided by V.T.C.A., Tax Code §25.21 for other property that escapes taxation. If an exemption that was erroneously allowed did not apply to all taxing units in which the property was located, the chief appraiser shall note on the appraisal records, for each prior year, the taxing units that gave the exemption and are entitled to impose taxes on the property or value that escaped taxation.
- (f) Where the ad valorem tax of any such person described in subsection (a) and subsection (b) has heretofore been pledged for the payment of any debt, the taxing officers of any taxing authority shall have the authority to continue to levy and collect the tax against the real and/or personal property of said person at the same rate as the tax so pledged until the debt is discharged, if the cessation of the levy would impair the obligation of the contract by which the debt was created.

(Ord. No. 271, §§ 2--7, 12-2-2004; Ord. No. 272, §§ 2--7, 1-13-2005)

82-3. Senior and disabled tax limitation.

- (a) *Tax limitation.* Beginning after the tax year 2008, for a person who is disabled or is sixty-five (65) years of age or older and receives a residence homestead exemption in the City of Helotes, Texas, the total amount of ad valorem taxes imposed on that homestead by the City may not be increased while it remains the residence homestead of that person or that person's spouse who is disabled or sixty-five (65) years of age or older and receives a residence homestead exemption on the homestead. For any person entitled to the tax limitation provided by this section who dies in a year in which the person received a residence homestead exemption, the total amount of ad valorem taxes imposed on the homestead by the City may not be increased while it remains the residence homestead of that person's surviving spouse if the spouse is fifty-five (55) years of age or older at the time of the person's death, subject to any exceptions provided by the general law. The tax amount levied by the City in tax year 2008 will be the cap that will be applied in future years for those who qualify for the tax limitation in tax year 2008.
- (b) *Improvements.* If an individual entitled to the tax limitation provided by Section 1 hereof, makes improvements to the individual's residence homestead, other than repairs and other than improvements required to comply with governmental requirements, the City may increase the amount of taxes on the homestead in the first year the value of the homestead is increased on the appraisal roll because of the enhancement of value by the improvements. The amount of the tax increase is determined by applying the current tax rate to the difference between the appraised value of the homestead with the improvements and the appraised value it would have had without the improvements.
- (c) *Duration.* The governing body of the City may not repeal or rescind the tax limitation established under this Ordinance. (Authorized by Tex. Const. Art. VIII, § 1-b (h))

(Ord. No. 359, §§1-3, 7-10-2008)

Sec. 82-4. Hotel Occupancy Tax.

(a) Definitions

The following words, terms, and phrases, where used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

Consideration means the cost of the room, sleeping space, bed, or other facility in such hotel and services rendered to the occupant of such room not related to the cleaning and readying of such room, sleeping space, bed or other facility for occupancy.

Hotel means any building or buildings, trailer or other facility, in which the public may, for a consideration, obtain sleeping accommodations. The term "hotel" shall include hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, or other buildings where rooms are furnished for a consideration. The term "hotel" shall not include hospitals, group homes for individuals with disabilities, sanitariums or nursing homes.

HOT means the municipal Hotel Occupancy Tax imposed by Section 82-4(b), as authorized by the Texas Tax Code.

Occupancy means the use or possession, or the right to the use or possession of any room, sleeping space, bed or other facility in a hotel for any purpose.

Occupant means anyone who, for a consideration, uses, possesses, or has a right to use or possess any room, sleeping space, bed or other facility in a hotel under any lease, concession, permit, right of access, license, contract or agreement.

Permanent resident means any occupant who has or shall have the right to occupancy of any room, sleeping space or other facility in a hotel for at least thirty (30) consecutive days during the current calendar year or preceding year.

Person means any individual, company, corporation or association owning, operating, managing or controlling any hotel.

Quarterly period means the regular calendar quarters of the year used by the Internal Revenue Service (IRS) for the quarterly payment of estimated income taxes.

(b) Levy of tax; rate; exceptions.

- (1) There is hereby levied a tax upon the cost of occupancy of any room or space furnished by any hotel within the City and its extra territorial jurisdiction (ETJ) where such cost of occupancy is at the rate of \$2.00 or more per day, such tax to be equal to seven (7%) percent of the consideration paid by the occupant of such room to such hotel.
- (2) No tax shall be imposed hereunder upon a permanent resident.

(c) *Collection.* Any person owning, operating, managing or controlling any hotel shall collect the tax imposed by Section 82-4(b) hereof.

(d) *HOT Report /Penalty and Interest.*

- (1) Any person required to collect the tax imposed by Section 82-4(b) shall file a HOT report with the city secretary detailing the consideration paid for all room occupancies in the preceding quarter, the amount of tax collected on such occupancies, and any other information the city may reasonably require. Such person shall pay over without delay the tax due on such occupancies at the time of filing the HOT report along with a copy of the tax report filed with the state comptroller's office in connection with the state hotel occupancy tax.
- (2) Quarterly reports and payments shall be due on the following dates:
 - a. First Quarter - April 15.
 - b. Second Quarter - July 15.
 - c. Third Quarter - October 15.
 - d. Fourth Quarter - January 15.
- (3) If the due date specified in subsection (2) hereof falls on a weekend or city holiday, the HOT report and payment shall be due on the next regular business day.

- (4) Any person failing to file a required report or to pay the city the tax imposed by Section 82-4(b) when due, will be assessed a five (5%) percent penalty on the amount of tax then due. If such report or tax is thirty (30) days or more late, an additional five (5%) percent penalty will be imposed on the tax due for a maximum penalty of ten (10%) percent; provided however that the minimum penalty amount imposed under this section shall not be less than twenty-five (\$25.00) dollars. If the penalty due under this section is not paid, such penalty shall incur simple interest at six (6%) percent per annum beginning on the sixtieth (60th) day from the date the tax was due.
- (e) *Rules and Regulations.* The City shall have the power to make such rules and regulations as necessary to effectively collect the tax levied herein and shall upon reasonable notice have access to the books and records necessary to audit and determine the correctness of any report filed with the city and the amount of tax due.
- (f) *Penalty.* Any person failing to comply with any reporting, collection, or payment obligation imposed herein including the payment of penalties and interest shall be deemed guilty of a misdemeanor and fined in the municipal court by the imposition of a penalty of not less than \$25.00 nor more than \$500.00 with each day of violation constituting a separate offense punishable by the imposition of a separate fine. In the prosecution of an offense under this section proof of a culpable mental state shall not be a necessary element of proof.

(Ord. No. 509, §1, 9-12-2013)

Secs. 82-5 - 82-10. Reserved.

ARTICLE II. TAX ASSESSOR/COLLECTOR

Sec. 82-11. Office created.

The office of city tax assessor/collector is created for the purpose of levying and collecting taxes by general laws for public purposes only. (Ord. No. 008, §I, 2-4-1982)

Sec. 82-12. Duties.

The assessor and collector shall make up the assessment of all property taxed by the city, and make duplicate rolls of them to the city secretary. The city tax assessor/collector shall:

- (1) Collect all the taxes due the city, and in the event of nonpayment of any taxes due the city, shall proceed to sell the property to raise the amount of taxes so due.
- (2) Give a good bond in such amount and form as the city council may prescribe, and he shall perform no official act until bond is provided.
- (3) At the end of every week, pay to the treasurer all money by him collected, and shall report to the city council at the first meeting in every month all money so collected and paid and perform all such other duties as the council may direct.

- (4) Make out a list of all personal property which has not been given to him for assessment, and assess the same in the name of the owner, if he is known; if not, then it shall be assessed by description of the property and as unknown owner. The property may be sold as in other cases if the tax is not paid thereon. The value of such property shall be determined by the board of equalization.
- (5) Assess all property in the city which has not been rendered for taxation in a supplement to the assessment rolls.

(Ord. No. 008, §II, 2-4-1982)

Secs. 82-13 - 82-20. Reserved.

ARTICLE III. TAX ABATEMENT

Sec. 82-21 Old Town Helotes Special District Tax Abatement Program.

- (a) Owners of real property located within the Old Town Helotes Special District (hereinafter referred to as "District") as defined and described in Chapter 98.72 of the Helotes Code of Municipal Ordinances will be eligible to apply to the City Council for Tax Abatement of municipal ad valorem taxes (hereinafter referred to as "Abatement"). The District is designated as a reinvestment zone pursuant to Tex. Tax. Code Ann. Sec. 312.202 for a period of five years from the effective date hereof. Such designation may be renewed for an additional five years as provided by law.
- (b) An owner of real property that generates sales tax, or his or her agent may apply for up to a fifty (50%) percent real property tax abatement of municipal ad valorem taxes for real property improvements including the construction of new facilities and structures located within the District. All improvements must comply with Ordinance No. 339, The Old Town Helotes Plan, and Chapter 98.72 of the Helotes Code of Municipal Ordinances in their entirety. Abatements are limited to ten (10) years per approved project or until the amount received by the property owner through the Abatement equals the eligible project costs, whichever occur first. Subject to subchapter (f) hereof, a current or new owner may continue to receive the Abatement until the ten (10) year period expires. After an existing ten (10) year period expires, a new project for a ten (10) year Abatement period may be applied for. Abatement periods will not run concurrently. The City Secretary shall keep records of all approved work and allotted time periods. All information will be forwarded to the Bexar County Appraisal District and the Bexar County Tax Assessor-Collector or their designees.
- (c) Eligible projects must be ten thousand dollars (\$10,000.00) or more and may include the construction of new facilities and structures, or the expansion or modernization of existing facilities and structures. All construction shall be consistent with subchapter (b) hereof.
 - (1) *Existing Structures.* Interior improvements will be limited to framing (walls, floors, and ceilings), plumbing, electrical wiring, mechanical items (heating, cooling, and ventilation), and cabinetry and woodwork. Fixtures, decorative items, and personal property will not normally be eligible for consideration (See subsection (d) below). Costs for Abatement projects on existing structures will include materials and labor necessary

for repairing, replacing, or additions to the structure. Additions must be like the original or as close to the original as possible. The following types of construction will be considered for reimbursement:

- a. Structural walls;
 - b. Structural subfloors;
 - c. Structural ceilings;
 - d. Exterior doors;
 - e. Exterior paint;
 - f. Mechanical equipment;
 - g. Windows;
 - h. Any exterior brick veneers or treatments;
 - i. All electrical wiring;
 - j. Roofing (Arising from structural or integrity concerns);
 - k. Gutter or roof drainage systems;
 - l. Façade items;
 - m. Architectural and engineering services, construction demolition, and clean up services if the work is directly related to work contained in the Certificate of Appropriateness;
 - n. Foundations;
 - o. Termite damage or treatment;
 - p. Security or fire protection systems;
 - q. Interior cabinetry or woodwork.
- (2) *New Facilities & Structures.* Eligible expenses include any item considered a reimbursable expense for the expansion or modernization of existing facilities & structures, as provided by subsection c(1) (a – q) hereof; and such other and additional items of new construction consistent with the Ordinance No. 399 and The Old Town Helotes Plan approved in a Certificate of Appropriateness.
- (d) Documented replacement of historic fixtures will be considered eligible for Abatement, as determined by the City Council.
- (e) Ineligible costs include, but are not limited to, the following:
- (1) Overhead;
 - (2) Taxes;
 - (3) Postage;
 - (4) Administrative payroll;
 - (5) Equipment repairs;
 - (6) Tools;
 - (7) Portable restrooms;
 - (8) Lodging and meals;
 - (9) Items not directly related to the structural integrity or viability of a structure;

- (10) Fixtures (except as provided by subsection (d) hereof).
- (f) A property owner currently receiving Abatement may apply for additional Abatements for new projects. If approved, new project Abatements will be credited to the property owner's Abatement account. After a current project has received an Abatement equal to the eligible costs, or the ten (10) year period has expired, a new Abatement may commence for an approved project not to exceed a maximum of ten (10) years. No more than one Abatement may be operative during any one ten (10) year project period.
 - (g) Approved Abatements may be assigned to subsequent owners with the approval of the City's City Council after notice and public hearing.
 - (h) If an approved structure for which an Abatement has been approved is totally or partially destroyed, or altered by the willful act or negligence of the owner or his or her representative, or if the owner fails to make the improvements required by the terms of the agreement providing for the Abatement, the owner shall be required to repay all previously abated ad valorem taxes after notice and hearing before the City Council. The City will to the extent permitted by law be entitled to a priority lien upon the previously abated real property to secure payment of the tax indebtedness, with such lien attaching immediately upon a declaration of indebtedness by the City Council.
 - (i) An approved Abatement will apply to subsequent increases in the rate of taxation or assessed valuation.
 - (j) *Application and Approval Process.* Prior to filing an application with the City Secretary for an Abatement, the prospective applicant shall:
 - (1) Provide a Certificate of Appropriateness from the City Council approving the project. Certify that the subject property is within the District and confirm the project has been constructed in conformity with the Certificate of Appropriateness.
 - (2) Certify the project has been completed. If the project has not yet been completed, the applicant must return to the City Council for approval.
 - (3) Application for Abatement will be completed by the property owner, or the owner's agent on the form provided by the City Secretary. Applications shall include all project cost receipts and an affidavit affirming the information contained in the application is correct. The City Secretary must receive completed Applications no later than thirty (30) days prior to public hearing by the City Council.
 - (4) Applications will be filed with the City Secretary. Each application will be signed and sworn to by the owner of the property and shall:
 - a. State the legal description of the property proposed for certification;
 - b. Include a final and complete set of plans for the structure's restoration, rehabilitation, or construction;
 - c. Include a statement of costs for the restoration, rehabilitation, or construction;
 - d. Include a projection of the estimated construction, time and predicted completion date of the restoration, rehabilitation, or construction;
 - e. Include a detailed statement of the proposed use for the property; and
 - f. Provide any relevant information on the history of the structure, or access to the structure by the public.

- g. Provide such other and additional information requested by the City to effectuate the purposes of this section.
 - h. Submit an application fee to the City of Helotes, Texas in the amount of \$100.00. Abatement applications may not be considered without payment of the application fee.
- (k) Prior to submission to the City Council, the City Administrator will prepare a report assessing the project, determining whether it was completed as approved in the Certificate of Appropriateness, and stating such other facts or information that may be useful to the City Council. Before submission of the written report and the Application to the City Council, the City Administrator will require the Building Inspector to inspect the property to ensure its compliance with all applicable codes.
- (l) The City Council shall hold a public hearing on all requests for Abatement upon the receipt of the completed Application and the Building Inspector's report.
- (m) Public notice shall include the date, time, and place of the public hearing, legal description of the property, and a general description of the applicant's request for Abatement. Notice shall be posted at City Hall and published in the official newspaper.
- (n) At the public hearing, the City Council shall determine if the completed project is substantially in compliance with the Certificate of Appropriateness. If the Council finds that additional information relative to the pending application is necessary for its review, the Council may postpone public hearing and action on the Application until such information is provided.
- (o) The City Council shall have the authority to approve, disapprove, or approve Abatement with conditions the Council deems necessary. The City Council shall not approve requests for Abatement where the project was completed prior to the adoption of this Article, where the applicant has not obtained a Certificate of Appropriateness, or where the applicant has not substantially complied with the requirements of the Certificate of Appropriateness.
- (p) *Effective Date.* The City Secretary shall, within ten (10) days, notify the Bexar County Tax Assessor-Collector of all approvals and prepare and provide all documentation required by the county. The Bexar County Tax Assessor-Collector will abate taxes for the property in accordance with this section. Approved Abatements shall take effect starting on January 1. (1st) of the year following approval and each year thereafter until the sum of abated taxes equals the eligible project costs, or until the expiration of the ten (10) Abatement year period.
- (q) *Program Discontinuance.* Should the City Council decide to discontinue the Abatement program, currently approved Abatements will be permitted to continue until expiration. Upon discontinuance the City Secretary will not accept new Abatement applications.
- (r) The guidelines and criteria adopted under this section are effective for two years from the date of the adoption of this section. During this period, the guidelines and criteria may be amended or repealed only by a vote of three-fourths of the members of the City Council.
- (s) The adoption of the guidelines and criteria by the City Council does not:
 - (1) limit the discretion of the City Council to decide whether to enter into a specific tax Abatement agreement; or
 - (2) limit the discretion of the City Council to delegate to its employees the authority to determine whether or not the City Council should consider a particular application or request for tax abatement; or
 - (3) create any property, contract, or other right including vested rights in any natural person

or other legally recognized entity to require the City Council to consider or grant a specific application for Abatement.

- (t) Information provided to the City in connection with an application or request for tax abatement under this chapter that describes the specific processes or business activities to be conducted, or the equipment or other property to be located on the property for which tax abatement is sought, is confidential and not subject to public disclosure until the tax abatement agreement is executed. The information in the custody of a taxing unit after the agreement is executed is not confidential under this paragraph.
- (u) The City Administrator shall prepare appropriate forms for use with this section including Certificates of Appropriateness and Abatement applications.

(Ord. No. 355, §1, 09-11-2008)

Chapters 83 - 85. Reserved.